IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVISION APPLICATION NO. 151 OF 2007

Damodar Waman Patil..... .....
Applicant.
V/s
Ganesh Vasant Rane.... .....
Respondent.

Mr.R.S.Datar, Adv. for the petitioner.

Mr.G.S.Bhat, Adv. For respondent.

CORAM: A.P. DESHPANDE, J.

8.6.2007

PC:

The revision-applicant is monthly tenant in premises bearing tenement No.11 and is in possession of 225 sq. ft. area. The respondent-landlord filed a suit in the Small Causes Court contending that the building is in dangerous condition and was required to be reconstructed and that the respondent was desirous of demolishing the said building and hence required the suit premises reasonably and bonafidely from the applicant for immediate demolition of the suit premises and for erection of new building. It was then stated that the municipal corporation has already issue IOD in respect of the proposed building and that the respondent was having necessary funds for erection of new building. Permission was sought under section 16(1)(i) of the Maharashtra Rent Control Act. It is an admitted position that by now all other tenants have vacated the building barring the present revision-applicant. The Small Causes Court decreed

the suit and aggrieved thereby the revision-applicant carried an appeal before the Appellate Bench of the Small Causes Court at Mumbai. The Appellate Court found that the claim of the Landlord is well substantiated and hence granted permission under section 16(1)(i). Aggrieved by orders passed by the Courts below the present revision application has been filed. The learned counsel for the the applicant has made two submissions; Firstly, that the decree has been passed by the Small Causes Court under section 16(1)(i) without securing an undertaking from the Landlord as required by section 16(6)(d). In the first place such an undertaking was already furnished in the plaint itself and to be precise in para 9 of the plaint. Even when the Appellate Court disposed of the appeal it has directed the respondent to furnish a fresh undertaking in tune with section 16(6)(d) of Maharashtra Rent Control Act and I am informed that the undertaking has been furnished. The learned counsel appearing for the respondent reiterated that the respondent is bound by the undertaking furnished by it as is required by section 16(6)(d) of the act. Secondly, that the Appellate Court has also found that the respondent has made out a case under section 16(1)(k) of the act when it was not even prayed for. Though the Appellate Court has found that the respondent has made out case under section 16(1)(k) the appeal has been dismissed and the respondent has been directed to furnish undertaking under section 16(6)(d). As stated herein above the learned counsel for the respondent unequivocally states that the respondent would be bound and will comply with the requirements of section 16(6)(d), meaning thereby offering the tenancy premises after construction of the building to the tenant. In this view of the matter there is no substance in the Civil

Revision Application and the same is dismissed.

8.6.07.